

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

SUNDROP BOTTLING COMPANY, INC.,)	
)	
)	
Plaintiff,)	NO. 1:19-cv-00039
)	
v.)	JURY DEMAND
)	
FIJI WATER COMPANY, LLC,)	JUDGE CAMPBELL
)	MAGISTRATE JUDGE
)	HOLMES
Defendant.)	

**PLAINTIFF’S MOTION FOR SUMMARY
JUDGMENT ON DEFENDANT’S COUNTERCLAIM**

Pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, Plaintiff Sundrop Bottling Company, Inc. (“Sundrop”), moves for summary judgment on the counterclaim of Defendant Fiji Water Company, LLC (“Fiji”). Sundrop is entitled to summary judgment because Fiji has no proof of damages on its counterclaim. Because Fiji’s counterclaim sounds in unjust enrichment, Fiji must demonstrate that it conferred a benefit on Sundrop, that Sundrop appreciated that benefit, and the value of that benefit. As explained more fully in Sundrop’s accompanying Memorandum of Law, Fiji has no evidence on these matters, and Sundrop is therefore entitled to summary judgment. Sundrop is also entitled to summary judgment on Fiji’s claim for attorney fees because Fiji has identified no legal basis for an award of attorney fees. Pursuant to Local Rule 56.01(b), Sundrop has filed with its Motion a Statement of Undisputed Material Facts. Sundrop relies on the following exhibits in support of its factual statements:

1. The Marketing Fund Agreement that forms the basis of Fiji’s counterclaim, attached as *Exhibit A*;

2. Excerpts from the deposition of Fiji's corporate representative Paul J. Clifford, attached as *Exhibit B*;
3. Fiji's Initial Disclosures, attached as *Exhibit C*;
4. The Declaration of Sundrop's counsel Ryan N. Clark, attached as *Exhibit D*; and
5. The Declaration of Sundrop's executive vice president T. David Johnson, III, attached as *Exhibit E*.

WHEREFORE Sundrop respectfully requests that the Court grant its Motion and dismiss Fiji's counterclaim with prejudice.

Respectfully submitted,

LEWIS, THOMASON,
KING, KRIEG & WALDROP, P.C.

By: /s/ Ryan N. Clark

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Motion has been served upon the counsel for the parties in interest by operation of the Court's electronic case filing system:

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Dated this 26th day of October, 2020.

/s/ Ryan N. Clark
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